



FEDERAL HOUSING FINANCE AGENCY

[No. 2021–N–12]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is establishing FHFA-26, Public Health Emergency Records System, a system of records under the Privacy Act. This system of records maintains information collected in response to a public health emergency, such as a pandemic or epidemic, from FHFA staff (including political appointees, employees, former employees, detailees, applicants for employment, and interns), contractors, and visitors to FHFA facilities or FHFA-sponsored events, that is necessary to ensure a safe and healthy work environment. FHFA may collect these records in response to a health-related declaration of a national emergency by the President, a public health emergency declared by the Health and Human Service (HHS) Secretary or designated federal official, or a public health emergency declared by a state or local authority. Even in the absence of a declaration of a health-related national emergency or public health emergency, FHFA may collect these records if it determines that a significant risk of substantial harm exists to the health of FHFA staff (as defined above), contractors, and visitors to FHFA facilities or FHFA-sponsored events.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless otherwise revised pursuant to comments received. New routine uses will go into effect on [INSERT DATE 30 DAYS AFTER PUBLICATION]

IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by “2021-N-12,” using any one of the following methods:

- *Agency Web site:* www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Please include “Comments/No. 2021-N-12” in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2021-N-12, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2021-N-12, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.* See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Beavers,

Supervisory Security Specialist, Stephanie.Beavers@fhfa.gov, (202) 649-3940; Stacy Easter, Privacy Act Officer, *privacy@fhfa.gov* or (202) 649-3803; or Tasha Cooper, Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649-3091 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. COMMENTS

FHFA seeks public comments on a new system of records and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing “Comments/No. 2021-N-12,” please reference FHFA-26, Public Health Emergency Records System. All comments received will be posted without change on the FHFA website at <https://www.fhfa.gov> and will include any personal information provided, such as name, address (mailing and email), telephone numbers.

II. INTRODUCTION

This notice informs the public of FHFA’s proposal to establish a new FHFA system of records. This notice satisfies the Privacy Act’s requirement that an agency publish a system of records notice in the *Federal Register* when establishing a new or making a significant change to an agency’s system of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The

General Counsel has determined that records and information in this system of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of OMB Circular No. A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, (81 FR 94424 (Dec. 23, 2016)), prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the Office of Management and Budget, the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. NEW SYSTEM OF RECORDS

The purpose of the new “Public Health Emergency Records System” (FHFA-26) is to assist FHFA with maintaining a safe and healthy workplace and responding to a public health emergency. These measures may include instituting activities such as: requiring FHFA staff (as defined above), contractors, and visitors to FHFA facilities or FHFA-sponsored events to provide information related to medical/health screening, contact tracing, and vaccination status before being allowed access to an FHFA facility or FHFA-sponsored event, a regulated entity’s facility, or the facility of a third-party for official business purposes.

FHFA may collect these records in response to a health-related declaration of a national emergency by the President, a public health emergency declared by the HHS Secretary or a designated federal official, or a public health emergency declared by a state or local authority. In the absence of a declaration of a health-related national emergency or public health emergency, FHFA may collect these records if it determines that a significant risk of substantial harm exists to the health of FHFA staff (as defined above), contractors, and visitors to FHFA facilities or FHFA-sponsored events. FHFA will collect and maintain the records in accordance with the Americans with Disabilities

Act of 1990 and guidance published by the U.S. Occupational Safety and Health Administration, the U.S. Equal Employment Opportunity Commission, and the U.S. Centers for Disease Control and Prevention.

The new system of records is described in detail below.

SYSTEM NAME AND NUMBER:

Public Health Emergency Records System, FHFA–26.

SECURITY CLASSIFICATION:

Controlled Unclassified Information.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized cloud service providers, and FHFA-authorized contractor networks located within the Continental United States.

SYSTEM MANAGER(S):

Office of Facilities and Operations Management, Security & Transportation Operations Branch, Supervisory Security Specialist, (202) 649-3940, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Workforce safety federal requirements, including the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); Occupational safety and health programs for Federal employees; 5 U.S.C. 7902; the Rehabilitation Act of 1973 (29 U.S.C. 791 *et seq.*); Title VII of the Civil Rights Act (42 U.S.C. 2000e(j)); 29 CFR 1605; the Americans with Disabilities Act (42 U.S.C. 12112(d)(3)(B)); Executive Order Nos. 12196, 12148, 12656, 13991, 13994, 14042 and 14043; the federal laws that authorize FHFA to create and maintain federal records of agency activities, 5 U.S.C. 301, 44 U.S.C. 3101; and the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended

(12 U.S.C. 4501 *et seq.*).

PURPOSE(S) OF THE SYSTEM:

The Public Health Emergency Records System (FHFA-26) is being established by FHFA to assist the agency with maintaining a safe and healthy workplace and responding to a public health emergency. These measures may include instituting activities such as: requiring FHFA staff, contractors, and visitors to FHFA facilities or FHFA-sponsored events to provide information related to medical/health screening, contact tracing, and vaccination status before being allowed access to an FHFA facility or FHFA-sponsored event, a regulated entity's facility, or the facility of a third-party for official business purposes, in response to a health-related declaration of a national emergency by the President, a public health emergency declared by the HHS Secretary or designated federal official, or a public health emergency declared by a state or local authority. In the absence of a declaration of a health-related national emergency or public health emergency, FHFA may collect these records if it determines that a significant risk of substantial harm exists to the health of FHFA staff, contractors, and visitors to FHFA facilities, FHFA-sponsored events, a regulated entity's facility, or a third-party's facility. The system serves four main purposes: 1. Assist with medical/health screening for individuals requesting entry into FHFA facilities or FHFA-sponsored events; 2. Perform contact tracing to notify individuals who may have had exposure to someone who is known or is believed to be infected with a contagious or communicable disease that is the subject of a public health emergency; 3. Establish a record collection to ensure FHFA collects medical information if it determines that a significant risk of substantial harm exists to the health of FHFA Staff, in addition to collecting medical information pursuant to the implementing guidance of applicable federal laws, public health mandates, and executive orders; and 4. Evaluate, approve, deny, and implement requests for medical and religious exceptions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include FHFA staff (as defined above), contractors, and visitors to FHFA facilities and FHFA-sponsored events during a public health emergency, such as a pandemic or epidemic.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include: name; contact information (*i.e.*, business and home addresses, business and personal electronic mail (email) addresses, business, home, cellular, personal telephone numbers); and any other information provided.

The system includes medical/health and relevant religious information collected about FHFA staff (as defined above), contractors, and visitors before being allowed to access an FHFA facility or FHFA-sponsored event, a regulated entity's facility, or a third-party's facility for official business purposes including, but not limited to: temperature checks; expected or confirmed test results for an illness that is the subject of a public health emergency in accordance with federal, state, or local public health orders; symptoms; potential or actual exposure to a contagious or communicable disease; immunization and vaccination information for FHFA staff and contractors; attestation of vaccination and/or exposure to a communicable disease status from visitors; medical history related to the treatment of a contagious or communicable disease that is identified as part of a public health emergency; and the dates associated with any of the foregoing information.

The system also includes information collected from FHFA staff (as defined above), contractors, visitors to an FHFA facility or FHFA-sponsored event, a regulated entity's facility, or facility of a third-party for official business purposes that is necessary to conduct contact tracing that may include, but is not limited to, the above information.

This information may also include, but is not limited to, the dates and the relevant facilities visited or FHFA-sponsored event attended; the names or descriptions (*e.g.*,

gender, race, approximate age, and other physical descriptors) of individuals they came into contact with; the specific locations (*e.g.* building floor, specific FHFA office) visited within the facility; the duration of time spent in the facility or in close proximity to other individuals; whether the individual may have potentially come into contact with a contagious person while visiting the facility; travel dates and locations; and contact information (phone, email address, and mailing address).

The system also includes medical, vaccination, and immunization records for FHFA staff and contractors pertaining to any illness that is the subject of a public health emergency including, but not limited to, the type and dose of vaccinations received, date(s) of vaccination(s), and vaccine provider, as well as the absence of vaccination information or other medical information.

The system also includes records documenting the evaluation, approval, and denial of requests for medical and religious exceptions.

RECORD SOURCE CATEGORIES:

Information is provided by FHFA staff (as defined above), contractors, and visitors before being allowed access to an FHFA facility, FHFA-sponsored event, a regulated entity's facility, or the facility of a third-party for official business purposes.

For FHFA contractors and visitors, information may also be provided by their employer or the organization the individual is affiliated with for purposes of accessing an FHFA facility or FHFA-sponsored event, a regulated entity's facility, or the facility of a third-party for official business purposes. For any of the individuals above who are minors, the information may be provided by the individual's parent or legal custodian.

Information may also be sourced from existing FHFA systems of records, including but not limited to, Benefits Records (FHFA-10), Emergency Notification System (FHFA-14), Reasonable Accommodations (FHFA-18), and also Government-wide systems of records, such as OPM/GOVT-10, Employee Medical File System

Records.

Information is also provided by individuals who are responsible for processing requests for medical and/or religious exceptions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and the information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To a federal, state, or local agency to the extent necessary to comply with laws governing reporting of infectious disease.

(2) To the emergency contact(s) of FHFA staff (as defined above), contractors, or visitors for purposes of locating such individuals during a public health emergency or communicate that an individual may have been exposed to a contagious or communicable disease as the result of a pandemic or epidemic while visiting an FHFA facility, FHFA-sponsored event, a regulated entity's facility, or a third-party's facility while the individual was there for official business.

(3) To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons as are reasonably necessary to assist with FHFA's efforts to respond to a suspected or confirmed breach or to prevent, minimize, or remedy harm;

(4) To another federal agency or federal entity, when FHFA determines that

information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(5) When there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(6) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related thereto, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(7) To any individual with whom FHFA contracts to collect, store, or maintain, or reproduce by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties, or to any individual who is engaged by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(8) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(9) To a court, magistrate, or administrative tribunal in the course of

presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(10) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, or other federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(11) To outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation—

- (a) FHFA;
- (b) Any employee of FHFA in his/her official capacity;
- (c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or
- (d) The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(12) To the National Archives and Records Administration or other federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(13) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(14) To a regulated entity or third-party for the purpose of providing FHFA staff or contractors access to a facility for official business purposes, limited to the least amount of information necessary for such purpose as determined or agreed to by FHFA.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic or paper format. Electronic records are stored on FHFA's secured network, FHFA-authorized cloud service providers and FHFA-authorized contractor networks located within the Continental United States. Paper records are stored in locked offices, locked file rooms, and locked file cabinets or safes.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by any of the following: name, contact information such as address (home, mailing and/or business); telephone numbers (personal and/or business); electronic mail addresses (personal and/or business); photographic identifiers; geospatial and/or geolocation data; date of entry into FHFA facilities; symptoms or other medical information reported; offices or floors visited within FHFA facilities; names of individuals reported as being in close proximity to another individual; the names of individuals contacted as part of contact tracing effort; vaccination status; vaccination date(s); vaccination type(s); and work status (full or part time FHFA employee, contractor, etc.).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedule 2.7, Item 060, Item 070, and General Records Schedule 2.3, Item 020.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in controlled access areas. Electronic records are

protected by restricted access procedures, including user identifications and passwords.

Only FHFA staff (and FHFA contractors assisting such staff) whose official duties require access are allowed to view, administer, and control these records.

RECORD ACCESS PROCEDURES:

See “Notification Procedures” Below.

CONTESTING RECORD PROCEDURES:

See “Notification Procedures” Below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system should address their inquiry to the Privacy Act Officer, via email to privacy@fhfa.gov or by mail to the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Clinton Jones,
General Counsel, Federal Housing Finance Agency.
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